

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:12 CV 229**

KENNETH BURKE AND LILIANA)	
MICOLI,)	
))	
Plaintiffs))	
))	
v))	
))	
BANK OF AMERICA, N.A. AND))	
RONALD BERG,))	
))	
Defendants))	

ORDER

THIS MATTER is before the undersigned pursuant to Bank of America, N.A.'s Motion to Compel (#47). Although the motion is described as a Motion to Compel, the attorney for the Defendant does not describe any relief being presently sought. Additionally, the motion does not reflect that there has been any consultation with the attorneys for the Plaintiffs nor has the Defendant filed a brief in support of the motion. LCvR 7.1(B) and (C) states as follows:

LCvR 7.1(B)

(B) Requirement of Consultation. Any motions other than for dismissal, summary judgment, or default judgment shall show that counsel have conferred or attempted to confer and have attempted in good faith to resolve areas of disagreement and set forth which issues remain unresolved. The requirement of consultation also applied to motions for extension of time and to motions for continuance of a trial or other proceeding. Consultation is not required where the moving

party is represented and the non-moving party is unrepresented, or where the motion is for an extension of time to file a responsive pleading to complaint, counterclaim, crossclaim, or any other initial petition for relief.

LCvR 7.1(C)

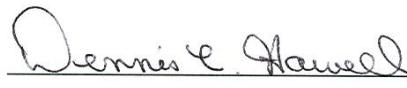
(C) Requirement of Briefs. Briefs shall be filed contemporaneously with the motion, except no brief is required in support of timely motions for extension of time, continuances, admission *pro hac vice*, or early discovery. Exhibits in support of a brief shall be attached as appendices as specified in the Administrative Procedures. Factual contentions shall be supported as specifically as possible by citation to exhibit number and page.

Due to the Defendant's motion not actually requesting relief and the Defendant, having failed to comply with LCvR 7.1(B) and (C), Defendant's motion will be denied.

ORDER

IT IS, THEREFORE, ORDERED that the Bank of America, N.A.'s Motion to Compel (#47) is **DENIED**.

Signed: September 11, 2014



Dennis L. Howell
United States Magistrate Judge
